

**United States Bankruptcy Court  
Central District of California  
Riverside  
Mark Houle, Presiding  
Courtroom 301 Calendar**

**Wednesday, October 18, 2023**

**Hearing Room 301**

11:00 AM

**6:19-14650 Blanca Flor Torres**

**Chapter 7**

**#1.00 Notice of Trustee's Final Report and Applications for Compensation**

EH\_\_

**[Tele. appr. Brandon Iskander, rep. chapter 7 trustee]**

Docket 97

**Tentative Ruling:**

**10/18/2023**

**Service: Proper**

**Opposition: None**

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, and noting the absence of opposition, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h), the Court is inclined to APPROVE the proposed distribution and the following administrative expenses:

Trustee Fees: \$6,022.11

Trustee Expenses: \$255.63

Attorney Fees: \$17,655.92

Attorney Expenses: \$487.42

Accountant Fees: \$1,000.00

U.S. Bankruptcy Court Fees: \$350.00

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

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**Chapter 7**

**Party Information**

**Debtor(s):**

Blanca Flor Torres

Represented By  
Brian J Horan

**Trustee(s):**

Robert Whitmore (TR)

Represented By  
Hydee J Riggs  
Robert P Goe  
Brandon J Iskander

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**6:21-13158 Moises Alvarez and Martha Valentin Alvarez**

**Chapter 7**

**#2.00** Objection to Claim Number 2 by Claimant Stefen McGrauth

EH\_\_

**[Tele. appr. Howard Grobstein, chapter 7 trustee]**

Docket 44

**Tentative Ruling:**

**10/18/2023**

**BACKGROUND**

On June 8, 2021, Moises Alvarez and Martha Valentin Alvarez ("Debtor") filed a Chapter 7 voluntary petition.

On July 12, 2021, Stefan McGrauth ("Creditor") filed a proof of claim ("Claim 2") as a general unsecured claim in the amount of \$3,250.00.

On September 12, 2023, Chapter 7 Trustee ("Trustee") filed a motion ("Motion") objecting to the claim on the basis that Creditor did not provide documentation to support Claim 2. There is no opposition.

**DISCUSSION**

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Under 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless "a party in interest" objects. Absent an objection, a correctly filed proof of claim constitutes "*prima facie* evidence of the validity and amount of the claim" under FED. R. BANKR. P. Rule 3001(f); *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FED. R. BANKR. PRO. Rule 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion. *Id.*

When a claim is based on a writing, "a copy of that writing shall be filed with the proof of claim." FED. R. BANKR. PRO. Rule 3001(c)(1).

FED. R. BANKR. PRO. Rule 3001(c)(2)(D) also provides:

(D) If the holder of a claim fails to provide any information required by this subdivision (c), the court may, after notice and hearing, take either or both of the following actions

- (i) preclude the holder from presenting the omitted information, in any form, as evidence in any contested matter or adversary proceeding in the case, unless the court determines that the failure was substantially justified or is harmless; or
- (ii) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure.

A proof of claim filed in accordance to Rule 3001 constitutes "prima facie evidence of the validity and amount of the claim." FED. R. BANKR. PRO. Rule 3001(f). "...failure to comply with Rule 3001 results in the creditor's proof of claim not being prima facie evidence of the claim's validity and amount." *In re Wingerter*, 594 F3d 931, 941 (6th Cir. 2010) (citing *Heath v. Am. Express Travel Related Servs. Co., Inc. (In re Heath)*, 331 B.R. 424, 433 (9th Cir. BAP 2005)).

Here, Trustee requests the Court sustain the Motion objecting to Claim 2 and award relief as outlined in FED. R. BANKR. PRO. Rule 3001(c). The violation of FED. R. BANKR. P. Rule 3001(c) in this instance does not justify barring amendments to the claim or the award of attorney's fees. However, based on Creditor's failure to provide documentation to support Claim 2, the Court finds disallowance appropriate.

Finally, the Court notes that service was proper and no opposition was filed, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h).

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**TENTATIVE RULING**

The Court is inclined to SUSTAIN the objection and DISALLOW Claim 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

<b>Party Information</b>
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**Debtor(s):**

Moises Alvarez

Represented By  
Jeffrey S Shinbrot

**Joint Debtor(s):**

Martha Valentin Alvarez

Represented By  
Jeffrey S Shinbrot

**Movant(s):**

Howard B Grobstein (TR)

Pro Se

**Trustee(s):**

Howard B Grobstein (TR)

Pro Se

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**6:22-10514 Ismeal M Shehub**

**Chapter 7**

**#3.00 Notice of Trustee's Final Report and Applications for Compensation**

EH\_\_

Docket 59

**Tentative Ruling:**

**10/18/2023**

**Service: Proper**

**Opposition: None**

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, and noting the absence of opposition, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h), the Court is inclined to APPROVE the proposed distribution and the following administrative expenses:

**TRUSTEE'S REQUEST**

Trustee Fees: \$2,750.00

Trustee Expenses: \$133.62

Attorney Fees: \$3,932.50

Attorney Expenses: \$54.87

Misc. Fees: \$188.00

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

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**CONT... Ismeal M Shehub**

**Chapter 7**

<b>Party Information</b>
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**Debtor(s):**

Ismeal M Shehub

Represented By  
Brian J Soo-Hoo

**Trustee(s):**

Robert Whitmore (TR)

Represented By  
Summer M Shaw

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**6:22-13208 Cynthia June Allen**

**Chapter 7**

**#4.00** CONT. Motion/Notice of Amended Objection and Amended Objection to the Debtor's Claimed Homestead Exemption (Motion filed 12/28/22)

From: 5/17/31

\*Date and time approved by Chambers

From: 1/18/23, 3/15/23, 4/12/23, 5/17/23

EH\_\_

**[Tele. appr. Jeff Tchakarov, rep. movant and secured creditor, Justine Occhipinti (trustee)]**

Docket 31

**Tentative Ruling:**

**10/18/23**

Based on the statements of position filed by the parties, the hearing on the Objection to Debtor's homestead exemption is continued to 11:00, on April 17, 2024, as a holding date pending the outcome of Debtor's appeal in the related state court matter.

APPEARANCES WAIVED.

<b>Party Information</b>
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**Debtor(s):**

Cynthia June Allen

Represented By  
David Akindele Akintimoye

**Movant(s):**

Justine Thede Occhipinti, trustee of

Represented By  
Melissa J Fassett



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**Trustee(s):**

Howard B Grobstein (TR)

Pro Se

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**6:22-14723 Better Nutritionals, LLC**

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Adv#: 6:23-01028      Simons v. WS Capital Advisors, LLC et al

**#5.00**      Plaintiff's Motion for Default Judgment Under LBR 7055-1

EH \_\_\_\_

Docket      38

**Tentative Ruling:**

**10/18/23**

**BACKGROUND**

On December 20, 2022, Better Nutritionals, LLC ("Debtor") filed a Chapter 11 voluntary petition.

On March 15, 2023, Debtor filed an adversary complaint against WS Capital Advisors, LLC, ("WS Capital"), a limited liability company, Thomas Signorelli ("Signorelli"), an individual and a member of WS Capital, and Kevin Westberg ("Westberg"), a member of WS Capital. The adversary proceeding includes claims for: (1) turnover of estate property; (2) breach of contract; (3) money had and received; (4) unjust enrichment; (5) conversion; and (6) fraud against WS Capital, Signorelli, and Westberg. On March 20, 2023, Debtor filed a motion to convert the case from Chapter 11 to Chapter 7. On March 30, 2023, the Court entered an order converting the case from Chapter 11 to Chapter 7. The Chapter 7 Trustee ("Trustee"), or ("Plaintiff"), as successor in interest to Debtor as Plaintiff, is seeking a money judgment of \$1,330,000.00.

Answers to the complaint were due on April 14, 2023. On April 13, 2023, Plaintiff filed a stipulation to extend time for Westberg to file his response to the adversary

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complaint, which was approved. Neither Signorelli nor WS Capital filed or served an answer or other responsive pleading.

On April 24, 2023, Plaintiff filed a request for entry of default against Signorelli, and a request for entry of default against WS Capital. On the same day, the Clerk granted the motion.

On September 15, 2023, Trustee filed a motion for default judgment under LBR 7055-1 ("Motion").

**DISCUSSION**

**A. Jurisdiction**

1. Personal Jurisdiction

Personal Jurisdiction over an out-of-state defendant is appropriate if the relevant state's long arm-statute permits the assertion of jurisdiction without violating federal due process. *Schwarzenegger v. Fred Martin Motor Co.*, 374, F.3d 797, 800 (9th Cir. 2004). Due process requires that non-residents have certain "minimum contacts" with the forum state. *Int'l Shoe Co. v. Washington*, 326. U.S. 310, 316 (1945).

The Ninth Circuit has articulated a three-prong test:

- a. the non-resident defendant must purposefully direct his activities or consummate some transaction in the forum or resident thereof, or perform some act by which it purposeful avails itself of the privilege of conducting activities in the forum, thereby invoking the benefits and protections of forum's

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laws;

- b. the claim must be one which arises out of or relates to the defendant's forum-related activities; and
- c. the exercise of jurisdiction must comport with the fair play and substantial justice.

*Lake v. Lake*, 817 F.2d 1416, 1421 (9th Cir. 1987).

*a. Purposeful Direction*

To determine if the first prong is satisfied, the Court must run a purposeful direction analysis. *Schwarzenegger*, 374 F.3d at 802 (stating that purposeful direction analysis is used in tort-related claims). A three part-test is utilized in the purposeful analysis—the *Calder*-Effects test. *Calder v. Jones*, 465 U.S. 783 (1984). Under this test, the defendant allegedly must have: (1) committed an intentional act; (2) expressly aimed at the forum state; and (3) caused harm that the defendant knows is likely to be suffered in the forum state. *Id.*

Here, WS Capital prepared a term sheet ("Term Sheet") executed by Debtor, a limited liability company organized under the laws of the state of California. Signorelli signed a letter ("Letter") and sent an email ("Email") on behalf of WS Capital representing the company's commitment to fund the transaction outlined in the term sheet. Both WS Capital and Signorelli are identified on agreements aimed only at California participants. By identifying themselves on such agreements only aimed at California participants, WS Capital's and Signorelli's actions are intentional and aimed at California, where the participants would be located. Furthermore, any harm suffered by breaching the agreements would be in California.

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*b. Forum Related Activities*

The second prong requires that Trustee's claims show that Debtor would not have been injured "but for" the defendants' forum-related conduct. *Myers v. Bennet Law Offices*, 238 F.3d 1068, 1075 (9th Cir. 2001).

Here, if Signorelli had not identified himself and undersigned the Letter and the Email on behalf of WS Capital, Debtor would have been unable to take out the loan needed to assist with its expansion in California and subsequently would not have been injured.

*c. Reasonableness*

The third prong requires that the Court consider seven factors:

- (1) The extent of defendant's purposeful interjection;
- (2) the burden on defendant in defending in the forum;
- (3) the extent of conflict with the sovereignty of defendant's state;
- (4) the forum state's interest in adjudicating the suit;
- (5) the most efficient judicial resolution of the controversy;
- (6) the importance of the forum to the plaintiff's interest in convenient and effective relief; and
- (7) the existence of an alternative forum.

*Core-Vent Corp. v. Nobel Indust. AB*, 11 F.3d 1482, 1487 (9th Cir. 1993).

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In engaging in this analysis, no one factor is dispositive. *Id.* at 1488.

With respect to the first factor, Trustee has shown that WS Capital and Signorelli had intentional and continuous contact with California. Signorelli is associated with WS Capital, which entered into a loaning agreement with Debtor, a California company, in California.

As to the second factor, there is nothing in the record that indicates that it would be inconvenient for WS Capital or Signorelli to litigate this lawsuit in California. The Court notes that Signorelli appears to reside in Florida.

Looking at the third factor, Trustee's claims in the Motion and Debtor's complaints arise under federal law and California state law. Thus, there is no potential conflict with another state's laws or regulation. This weighs in favor of the Trustee.

Regarding the fourth factor, Trustee is headquartered in California, and Debtor is incorporated in California. Californian courts, including this Court, have a strong interest in protecting Californian citizens and domestic businesses from the wrongful acts of non-resident defendants.

As to the fifth factor, most of the evidence and the witnesses are based in Norco, California.

Turning to the sixth factor, while it may not be as convenient for Trustee to litigate this matter outside of California, there is nothing in the record suggesting that convenient and effective relief is unavailable in a different

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forum. Thus, this factor is neutral.

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Evaluating the seventh factor, the Court finds that this factor is neutral for the same reasons stated above. Thus, taking all the foregoing factors into consideration, the Court finds that this Court has personal jurisdiction over WS Capital and Signorelli in this action.

2. Subject Matter Jurisdiction

This Court has subject matter jurisdiction pursuant to 28 U.S.C. §157(b)(1)—Bankruptcy Judges may hear and determine all cases under title 11 and all core proceedings arising under title 11—and 28 U.S.C. §1334. Plaintiffs have asserted a claim arising under title 11, a Chapter 7 voluntary petition, and the matter concerns determinations as to the dischargeability of particular debts. U.S.C. §157(b)(2)(I).

3. Venue

Venue is proper pursuant to 28 U.S.C. §1409(a):

"Except as otherwise provided in subsections (b) and (d), a proceeding arising under title 11 or arising in or related to a case under title 11 may be commenced in the district court in which such case is pending."

Debtors' lead bankruptcy case (22-bk-14723-MH) is currently pending in this Court.

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**B. Entry of Default Judgment**

FED. R. CIV. P. Rule 55, incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7055, states that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default." Fed. R. Civ. P. 55(a). FED. R. CIV. P. Rule 55 and Local Rule 7055-1 provides further requirements relating to a motion for entry of default judgment, and those requirements have been substantially satisfied here.

In this case, the Trustee has fulfilled such requirements in his request for entry of default: (a) the identity of the parties whom default was entered and the date of entry of default; (b) the defaulting party is neither an infant nor a competent person; (c) the defendants are not currently on active duty in the armed forces, etc. The Trustee also provided information for the Clerk of the Court to rightly determine that defendants failed to plead or otherwise defend within twenty-one days after service of the summons and the complaint. FED. R. BANKR. P. Rule 7012(a) and (b). Thus, the Clerk entered a valid entry of default.

**C. Motion for Default Judgment**

**1. Proper Service of Complaint**

FED. R. BANKR. P. Rule 7004(b)(1) states, in relevant part:

[S]ervice may be made within the United States by first class mail postage prepaid as follows...

- (1) Upon an individual other than an infant or incompetent, by mailing a copy of the summons and complaint to the individual's dwelling house or usual place of abode or to the place where the individual regularly conducts a business or profession.

Here, Trustee has provided proof of service on WS Capital and Signorelli. Movant to



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provide evidence as to efforts to determine correct address for service on Signoreli.

2. Merits of Plaintiff's Claim

Factors this Court may consider in exercising its discretion as to the entry of default judgment include:

- (1) the possibility of prejudice to the plaintiff;
- (2) the merits of plaintiff's substantive claim;
- (3) the sufficiency of the complaint;
- (4) the sum of money at stake in the action;
- (5) the possibility of a dispute concerning material facts;
- (6) whether the default was due to excusable neglect; and
- (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits.

*Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986).

a. *Possibility of Prejudice*

If "Plaintiff would suffer prejudice if the default judgment is not entered because Plaintiff will be without other recourse for recovery," the first *Eitel* factor is satisfied. *PepsiCo v. California Security Cans*, 238 F.Supp.2d 1172, 1177 (C.D. Cal. 2002).

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Here, as a result of Defendants' failure to file or serve an answer or other responsive pleading, Debtor will suffer prejudice if the Motion is not granted. Debtor will likely "be without other recourse for recovery" of \$1,330,000.00 paid to WS Capital. Therefore, the first *Eitel* factor favors granting the Motion.

*b. Merits of Plaintiff's Substantive Claim and the Sufficiency of the Complaint*

The next two *Eitel* factors overlap. *United States v. Pacific Design Furniture, Inc.*, 2015 WL 5440588 (C.D. Cal., 2015). The Court must consider whether the allegations in the complaint are sufficient to state a claim on which the plaintiff may recover. *See Danning v. Lavine*, 572 F.2d 1386, 1388 (9th Cir. 1978).

As a general rule, upon an entry of default, the factual allegations of the plaintiff's complaint ("Complaint") will be taken as true except those relating to the amount of damages. *Totten v. Hurrell*, 2001 U.S. Dist. Lexis 20909, \*6 (N.D. Cal. 2001). A default establishes the well-pleaded allegations of a complaint unless they are: (1) shown to be indefinite or erroneous by other statements in the complaint; (2) contrary to facts of which the court will take judicial notice; (3) not susceptible of proof by legitimate evidence; or (4) contrary to uncontroverted material in the file of the case. *Trans World Airlines, Inc. v. Hughes*, 38 F.R.D. 499, 501 (S.D.N.Y. 1965). A well-pleaded allegation is sufficient to prove a defendant's liability. *TeleVideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

Trustee generally alleges WS Capital and Signorelli fraudulently obtained a \$1,330,000.00 loan from Debtor and have not returned any portion of the money. [Dkt. 38, pg. 1]. On August 18, 2021, Debtor entered into a pre-petition loan agreement where Debtor would pay a \$1,200,000.00 transaction fee ("Transaction Fee") and \$130,000.00 in prior deposits. [Dkt. 1, pg. 3, Exhibit 4]. Trustee alleges WS Capital never provided any funding to Debtor and knowingly made multiple false statements regarding the loan.

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1. Turnover of Estate Property

Trustee alleges that Debtor is entitled to the turnover of \$1,330,000.00 under 11 U.S.C. § 542(b). In his declaration and in the Motion, Trustee claims Debtor retained an equitable interest in the \$1,330,000.00 paid to WS Capital, that the amount is property of the estate, and the funds are subject to turnover. Pursuant to 11 U.S.C. § 542(b), "[A]ny entity that owes a debt that is property of the estate and that is matured, payable on demand, or payable on order, shall pay such debt to, or on the order of, the trustee, except to the extent that such debt may be offset under section 553 of this title against a claim against the debtor." Thus, Trustee has shown the allegation in this Complaint are sufficient to state a claim on which the estate may recover.

2. Breach of Contract

Debtor alleges WS Capital and Debtor entered into a written agreement on or about the date when Debtor executed the Term Sheet. Debtor also alleges that they fully performed its obligations under the Term Sheet, that WS Capital breached the written agreement by failing to provided the \$1,330,000.00 contemplated in the Term Sheet, and that Debtor has been damaged in the amount of \$1,330,000.00 plus interest. "The standard elements of a claim for breach of contract are '(1) the contract, (2) plaintiff's performance or excuse for nonperformance, (3) defendant's breach, and (4) damage to plaintiff therefrom.'" *Wall Street Network, Ltd. V. New York Times Co.*, 164 Cal.App.4<sup>th</sup> 1171, 1178 (2008). Taking the allegations of the complaint as true, Trustee has satisfactorily stated a claim for breach of contract.

3. Money Had and Received

Debtor alleges WS Capital is indebted to Debtor in the amount of \$1,200,000.00 for money had and received by WS Capital. The essential elements of an action for money had and received are (1) a statement of indebtedness of a certain sum; (2) the consideration made by the plaintiff; and (3) nonpayment of the debt. (4 Witkin, Cal. Procedure (3d ed. 1985)).

Here, the Complaint alleges a clear statement of indebtedness of a certain sum of

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\$1,330,000.00, comprised of a \$1,200,000.00 Transaction Fee and \$130,000.00 in prior fees. [Dkt. 1, pg. 3, Exhibit 4]. Additionally, consideration was made by the Debtor to pay the Transaction Fee in reliance upon WS Capital funding the transaction agreed to in the Term Sheet. *Id.* WS Capital also stated they will refund Debtor \$130,000.00. [Dkt. 1, pg. 3, Exhibit 4]. Finally, the Complaint alleges WS Capital has not paid Debtor. [Dkt. 1, pg. 3]. Therefore, Trustee has sufficiently stated a claim for money had and received.

**4. Unjust Enrichment**

In the Complaint, Debtor alleges that WS Capital is unjustly enriched by the retention of \$1,330,000.00. [Dkt. 1, pg. 6]. A defendant is unjustly enriched when she retains a benefit at the expense of another. *See Lyles v. Sangadeo-Patel*, 225 Cal.App.4<sup>th</sup> 759, 769 (2014).

Here, Debtor states that WS Capital has received the benefit of \$1,330,000.00 and WS Capital would be unjustly enriched by retaining this amount without returning it to the Debtor as agreed upon. [Dkt. 1, pg. 3]. Therefore, the Trustee has shown the allegation in this Complaint are sufficient to state a claim on which the estate may recover.

**5. Conversion**

Conversion is the wrongful exercise of ownership over the property of another. *Lee v. Hanley*, 61 Cal. 4<sup>th</sup> 1225, 1240 (2015). The elements of conversion are: (1) the plaintiff's ownership or right to possession of the property; (2) the defendant's conversion by a wrongful act or disposition of property rights; and (3) damages." *Id.*

Here, Debtor voluntarily paid WS Capital the Transaction Fee of \$1,200,000.00 and the additional fees totaling \$130,000.00. However, the Complaint alleges Debtor "was, and still is, entitled to the possession" of the Transaction fee and the additional fees. [Dkt. 1, pg. 10]. Debtor further alleges WS Capital converted the funds by refusing, and continuing to refuse, to return the funds to Debtor. *Id.* The Debtor has sufficiently

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stated a claim in the Complaint against WS Capital on which Trustee can recover.

6. Fraud

In the Complaint, Debtor alleges all defendants are liable for fraud. [Dkt. 1, pg. 11]. The elements of fraud are: (1) misrepresentation; (2) knowledge of falsity; (3) intent to defraud; (4) justifiable reliance; and (5) resulting damage. *Kearns v. Ford Motor Co.*, 567 F.3d 1120 (9th Cir. 2009). Additionally, "[i]n alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally." FED. R. CIV. P. Rule 9(b).

Here, Trustee alleges generally that WS Capital and Signorelli knowingly made false representations of material act regarding their intention and ability to perform their obligations under the loan agreement. [Dkt. 1, pg. 11]. Trustee states with particularity the circumstances constituting fraud, including misrepresentations made regarding purported wire confirmations. *Id.* Trustee attached 13 exhibits to the Complaint of the alleged written misrepresentations made by WS Capital and Signorelli to Debtor, which, combined with Debtor's allegations in the Complaint are sufficient to state a claim for fraud. [Dkt. 1, pgs. 12, 34-65].

*c. Sum of Money at Stake*

Trustee is seeking the turnover of the \$1,200,000.00 Transaction Fee and \$130,000.00 in prior fees for a total of \$1,330,000.00, and for pre-judgment interest at various rates depending on the claim for relief. [Dkt. 38, pgs. 10-11]. The significant amount at stake weighs against default judgment.

*d. Possibility of a Dispute Concerning Material Facts*

**United States Bankruptcy Court  
Central District of California  
Riverside  
Mark Houle, Presiding  
Courtroom 301 Calendar**

**Wednesday, October 18, 2023**

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2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

The Trustee provided evidence from the Debtor's Complaint of communications concerning the funds. [Dkt. 38, Exhibit 1]. Furthermore, Trustee served Defendants with process on this matter. As such, the Court finds that the possibility of disputes of material facts is unlikely.

*e. Excusable Neglect*

Here, WS Capital and Signorelli failed to plead or otherwise defend against the claim, and the Court does not otherwise see any basis for excusable neglect in the pleadings.

*f. Strong Policy*

Although the policy underlying the Federal Rules of Civil Procedure favors decisions on the merits, the case at hand does not warrant a denial of judgment solely on that ground, given the showing made by Trustee.

**TENTATIVE RULING**

Based on the foregoing, the Court is inclined to GRANT the motion, awarding judgment on the first, second, third, fourth, fifth, and sixth claims for relief, subject to movant providing evidence of effort to determine correct address to serve Signorelli.

**APPEARANCES REQUIRED.**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Better Nutritionals, LLC

Represented By  
John N Tedford IV  
Aaron E. DE Leest  
Danielle R Gabai

**United States Bankruptcy Court  
Central District of California  
Riverside  
Mark Houle, Presiding  
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**CONT... Better Nutritionals, LLC**

**Chapter 7**

**Defendant(s):**

WS Capital Advisors, LLC

Pro Se

Thomas Signorelli

Pro Se

Kevin Westberg

Represented By  
Stephanie Chau

**Plaintiff(s):**

Larry D. Simons

Represented By  
David Wood  
D Edward Hays

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood  
Tinho Mang  
Michael A Sweet

**United States Bankruptcy Court  
Central District of California  
Riverside  
Mark Houle, Presiding  
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**Wednesday, October 18, 2023**

**Hearing Room 301**

2:00 PM

**6:16-14273 Allied Injury Management, Inc.**

**Chapter 11**

**#6.00** CONT Order (1) Setting Scheduling Hearing And Case Management  
Conference And (2) Requiring Status Report

(Post-Confirmation Status Conference)

From: 6/7/16, 8/30/16, 9/14/16, 10/20/16, 10/25/16, 12/6/16, 1/10/17, 2/28/17,  
3/28/17, 5/30/17, 8/29/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18,  
11/27/18, 2/26/19, 4/10/19, 6/12/19, 8/28/19, 11/6/19, 2/12/20, 2/19/20, 4/29/20,  
7/29/20, 9/30/20, 1/12/21, 3/30/21, 5/4/21, 7/20/21, 11/30/21, 4/26/22, 8/30/22,  
4/5/23

EH\_\_

**[Tele. appr. David Goodrich, liquidating trustee, pro se]**

Docket 7

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Allied Injury Management, Inc.

Represented By  
Alan W Forsley

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Mark S Horoupian  
Jason Balitzer  
Victor A Sahn  
Steven Werth



**United States Bankruptcy Court  
Central District of California  
Riverside  
Mark Houle, Presiding  
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**Wednesday, October 18, 2023**

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2:00 PM

**6:23-12281 Jae Yong Yu**

**Chapter 7**

Adv#: 6:23-01086 Simons v. Advant Lending

**#7.00** Status Conference re Complaint by Larry D. Simons against Advant Lending. (\$350.00 Fee Charge To Estate). --Complaint to Avoid and Recover Preferential Transfer, for Turnover of Transfer, and to Preserve Avoided and Recovered Preferential Transfer for Benefit of the Bankruptcy Estate, with proof of service, (Attachments: # 1 Adversary Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)), (11 (Recovery of money/property - 542 turnover of property))

EH\_\_

**[Tele. appr. Nancy Zamora, rep. chapter 7 trustee]**

Docket 1

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Jae Yong Yu

Represented By  
Chris T Nguyen

**Defendant(s):**

Advant Lending

Pro Se

**Plaintiff(s):**

Larry D. Simons

Represented By  
Nancy H Zamora

**Trustee(s):**

Larry D Simons (TR)

Represented By  
Nancy H Zamora

**United States Bankruptcy Court  
Central District of California  
Riverside  
Mark Houle, Presiding  
Courtroom 301 Calendar**

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2:00 PM

**6:23-12281 Jae Yong Yu**

**Chapter 7**

Adv#: 6:23-01087 Simons v. Orabuena et al

**#8.00** Status Conference re Complaint by Larry D. Simons against Jesus Daniel Orabuena, Kayla May Orabuena. (\$350.00 Fee Charge To Estate). --Complaint to Avoid and Recover Fraudulent Transfer and Preferential Transfer, for Turnover of Transfer and Real Property, to Preserve Avoided and Recovered Transfer for Benefit of the Bankruptcy Estate, and for Declaratory Relief Regarding Rejection of Executory Contract, with proof of service (Attachments: # 1 Adversary Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(12 (Recovery of money/property - 547 preference)),(11 (Recovery of money/property - 542 turnover of property)),(91 (Declaratory judgment)) (Zamora, Nancy)

EH\_\_

**[Tele. appr. Nancy Zamora, rep. chapter 7 trustee]**

Docket 1

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Jae Yong Yu

Represented By  
Chris T Nguyen

**Defendant(s):**

Jesus Daniel Orabuena

Pro Se

Kayla May Orabuena

Pro Se

**Plaintiff(s):**

Larry D. Simons

Represented By  
Nancy H Zamora

**United States Bankruptcy Court  
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Riverside  
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**CONT... Jae Yong Yu**

**Chapter 7**

**Trustee(s):**

Larry D Simons (TR)

Represented By  
Nancy H Zamora

**United States Bankruptcy Court  
Central District of California  
Riverside  
Mark Houle, Presiding  
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**Wednesday, October 18, 2023**

**Hearing Room 301**

3:00 PM

**6:22-14723 Better Nutritionals, LLC**

**Chapter 7**

**#9.00** Motion by Chapter 7 Trustee for Order Approving Sale Procedures;  
Memorandum of Points and Authorities; Declarations of Larry D. Simons and K.  
Kevin Otus; and Request for Judicial Notice  
(Motion filed 10/11/23)

EH\_\_

Docket 705

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Better Nutritionals, LLC

Represented By  
John N Tedford IV  
Aaron E. DE Leest  
Danielle R Gabai

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood  
Tinho Mang  
Michael A Sweet